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6 County of Clark,
Kathleen Lambermont
7

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 ***

11 JACQUELYNN NICKLER,
12 Plaintiff,

13 vs.

14 COUNTY OF CLARK, organized and of the
existing under the laws of State of Nevada;
STEVEN D. GRIERSON, court administrator,
15 individually; KATHLEEN LAMBERMONT,
administrator of the Clark County District
16 Attorney's office, individually; and DOE 1
through 10, inclusive,

17 Defendants.
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CASE NO. 2:14-cv-1907-JCM-CWH

**CONFIDENTIALITY AGREEMENT AND
PROTECTIVE ORDER**

19 Plaintiff Jacquelyn Nickler, by and through her counsel of record, Cal J. Potter, III, Esq.,
20 and C.J. Potter, IV, Esq., Defendant Steven D. Grierson, by and through his counsel of record,
21 Senior Deputy Attorney General Frederick J. Perdomo, Esq., and Defendants Clark County and
22 Kathleen Lambermont, by and through their attorneys, Robert W. Freeman, Esq., and Cayla Witty,
23 Esq., hereby agree and stipulate as follows:

24 1. The parties enter into this Stipulation and Protective Order under Federal Rule of
25 Civil Procedure 26(c) to establish procedures for the handling of documents produced by the
26 parties in response to discovery requests.

27 2. Any party may designate and mark certain documents produced in response to
28 discovery requests as "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER." The party

1 designating such documents shall be referred to as the Designating Party and any party in receipt
 2 of such documents shall be referred to as the Receiving Party. Documents so marked may be used
 3 only for purposes of this litigation.

4 3. Except as otherwise ordered by this Court, documents marked “CONFIDENTIAL”
 5 or “SUBJECT TO PROTECTIVE ORDER” and the contents of documents so marked may be
 6 disclosed only to the parties, including employees and agents of Clark County necessary for the
 7 purposes of this litigation, and the following persons:

- 8 (a) counsel of record for Plaintiff;
- 9 (b) counsel of record for Defendants;
- 10 (c) the non-technical and clerical staff employed by counsel of record;
- 11 (d) interpreters and copying services employed by counsel of record’s employer
- 12 to the extent reasonably necessary to render professional services in this case;
- 13 (e) any private court reporter retained by counsel for depositions in this case;
- 14 (f) subject to the terms of paragraph 5, persons retained by counsel to serve as
- 15 expert witnesses or consultants in this case; and
- 16 (g) personnel of the Court, including court reporters, officials and employees of
- 17 the Clerk of Court, and staff of the presiding United States District Judge and United States
- 18 Magistrate Judge, to the extent deemed necessary by the Court.

19 4. If counsel for a Receiving Party determines that it is necessary to disclose any
 20 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to any
 21 persons other than the individuals included in paragraph 3, that counsel shall set forth the grounds
 22 for the disclosure and seek the written consent of counsel for the Designating Party. The
 23 Designating Party shall respond to the Receiving Party’s request within seven calendar days unless
 24 the Receiving Party agrees to a longer period. If counsel for the Designating Party does not
 25 consent, counsel for the Receiving Party and counsel for the Designating Party shall within five
 26 court days of the Designating Party’s response meet and confer in person or telephonically
 27 regarding the issue, during which meeting and conference counsel for the Receiving Party shall
 28 specify the reasons why disclosure is necessary. If any agreement is not reached, the Designating

1 Party shall move the Court within the ten calendar days of the meeting and conference for a
2 protective order preventing disclosure. The Receiving Party shall not disclose the document unless
3 the Designating Party has failed to file a motion within the time allowed or the Court has denied
4 the motion.

5 5. If counsel for the Receiving Party determines that it is necessary to disclose any
6 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to an expert
7 or consultants retained to render professional services in this case, that counsel shall notify counsel
8 for the Designating Party in writing at least seven days before the proposed disclosure with the
9 name of the expert or consultant. The Designating Party shall respond to the Receiving Party’s
10 notification within seven calendar days unless the Receiving Party agrees to a longer period. If
11 counsel for the Designating Party objects, counsel for the Receiving Party and counsel for the
12 Designating Party shall within five court days of the Designating Party’s response meet and confer
13 in person or telephonically regarding the issue. If an agreement is not reached, the Designating
14 Party shall move the court within ten calendar days of the meeting and conference for a protective
15 order preventing disclosure. The Receiving Party shall not disclose the document unless the
16 Designating Party has failed to file a motion within the time allowed or the Court denies the
17 motion.

18 6. Any party may object to the propriety of the designation of documents as
19 “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” by objecting and setting forth in
20 writing the grounds for the objection. The Designating Party shall respond to the Receiving
21 Party’s objection within seven calendar days unless the Receiving Party agrees to a longer period.
22 If an agreement is not reached, counsel for the Receiving Party and counsel for the Designating
23 Party shall within five court days of the Designating Party’s response meet and confer in person or
24 telephonically, during which meeting and conference counsel for the Receiving Party shall specify
25 the grounds for objection with respect to each document at issue. If the parties cannot agree, then
26 the Designating Party will then have ten calendar days after the conference of counsel to file a
27 motion to preserve the confidentiality designation. The burden of proof to demonstrate
28 confidential treatment of any information at all times remain with the Designating Party. The

1 for the Receiving Party shall destroy or send to counsel for the Designating Party all copies of
2 documents marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”

3 Notwithstanding this paragraph, however, the parties’ attorneys may retain one copy of
4 each document filed with the Court that contains or refers to any of the designated documents.
5 Furthermore, nothing in this paragraph shall be construed to require the parties’ attorneys to
6 disclose any attorney work-product to opposing counsel.

7 11. In connection with a deposition in this case, a witness or any counsel may indicate
8 that a question or answer refers to the content of a document marked “CONFIDENTIAL” or
9 “SUBJECT TO PROTECTIVE ORDER.” If the indication occurs on the record during the
10 deposition, all persons not authorized to review such documents shall leave the deposition room
11 until completion of the answers referring to the document and the reporter shall mark the transcript
12 of the designated testimony “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”

13 12. This Order does not seal court records in this case or apply to disclosure of
14 Protected Material at trial. If any party wishes to submit into the written record of this case any
15 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” or excerpts
16 from any such document, that party shall seek to submit the document under seal. Further, the
17 parties understand that documents may be filed under seal only with the permission of the Court
18 after proper motion. Further, the fact that documents have been designated as “CONFIDENTIAL”
19 shall not be admissible evidence that the documents in fact contain information entitled to
20 protection from disclosure under the law.

21 In the event a Party seeks to file Protected Materials with the Court, those documents shall
22 be filed under seal pursuant to Local Rule IA 10-5 for the U.S. District Court of Nevada and the
23 Ninth Circuit’s decision in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir.
24 2006). If the sole ground for a motion to seal is that the opposing party (or non-party) has
25 designated a document as subject to protection pursuant to this Stipulated Protective Order, the
26 movant must notify the opposing party (or non-party) at least seven days prior to filing the
27 designated document. The Designating Party must then make a good faith determination if the
28 relevant standard for sealing is met. To the extent the Designating Party does not believe the

1 relevant standard for sealing can be met, it shall indicate that the document may be filed publicly
2 no later than four days after receiving notice of the intended filing. To the extent the Designating
3 Party believes the relevant standard for sealing can be met, it shall provide a declaration
4 supporting that assertion no later than four days after receiving notice of the intended filing. The
5 filing party shall then attach that declaration to its motion to seal the designated material. If the
6 Designating Party fails to provide such a declaration in support of the motion to seal, the filing
7 party shall then file a motion to seal so indicating and the Court may order the document filed in
8 the public record.

9 13. Nothing in this Stipulation and Protective Order prevents any party from
10 challenging any assertion of privilege by any party, and nothing in this Stipulation and Protective
11 Order constitutes a waiver of any assertion of privilege by any party or precludes any party from
12 moving for consideration of information ex parte and in camera.

13 14. Anyone found to be in violation of this Order may have sanctions imposed against

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1 him or her as the Court may determine and allowable under law and may also be subject to
2 contempt of court proceedings.

3 DATED this 26th day of September, 2016.

4 LEWIS BRISBOIS BISGAARD & SMITH

5  NMB. 12897
Robert W. Freeman, Esq.

6 Nevada Bar No. 3062

7 6385 S. Rainbow Boulevard, Suite 600

8 Las Vegas, Nevada 89118

9 Attorneys for Defendants Clark County
and Kathleen Lambermont

10 DATED this ____ day of September, 2016.

11 POTTER LAW OFFICES

12 Cal J. Potter, III, Esq.

13 C.J. Potter, IV, Esq.

14 1125 Shadow Lane

Las Vegas, Nevada 89102

Attorneys for Plaintiff Jacquelynn Nickler

15 DATED this ____ day of September, 2016.

16 OFFICE OF THE ATTORNEY GENERAL

17
18 Frederick J. Perdomo, Esq.

19 Deputy Attorney General

20 Bureau of Litigation

Public Safety Division

21 100 N. Carson Street

Carson, City, Nevada 89701-4717

22 Attorneys for Defendant Steven Grierson

23 **ORDER**

24 IT IS SO ORDERED.

25 DATED this September 27, 2016.

26
27 
28 U.S. MAGISTRATE JUDGE

1 him or her as the Court may determine and allowable under law and may also be subject to
2 contempt of court proceedings.

3 DATED this ____ day of September, 2016.

4 LEWIS BRISBOIS BISGAARD & SMITH

5 _____
6 Robert W. Freeman, Esq.
7 Nevada Bar No. 3062
8 6385 S. Rainbow Boulevard, Suite 600
9 Las Vegas, Nevada 89118
10 Attorneys for Defendants Clark County
11 and Kathleen Lambermont

12 DATED this ____ day of September, 2016.

13 POTTER LAW OFFICES

14 _____
15 Cal J. Potter, III, Esq.
16 C.J. Potter, IV, Esq.
17 1125 Shadow Lane
18 Las Vegas, Nevada 89102
19 Attorneys for Plaintiff Jacquelynn Nickler

20 DATED this ____ day of September, 2016.

21 OFFICE OF THE ATTORNEY GENERAL

22 _____
23 Frederick J. Perdomo, Esq.
24 Deputy Attorney General
25 Bureau of Litigation
26 Public Safety Division
27 100 N. Carson Street
28 Carson, City, Nevada 89701-4717
Attorneys for Defendant Steven Grierson

ORDER

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

U.S. MAGISTRATE JUDGE

him or her as the Court may determine and allowable under law and may also be subject to contempt of court proceedings.

DATED this ____ day of September, 2016.

LEWIS BRISBOIS BISGAARD & SMITH

Robert W. Freeman, Esq.
Nevada Bar No. 3062
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants Clark County
and Kathleen Lambermont

DATED this ____ day of September, 2016.

POTTER LAW OFFICES

Cal J. Potter, III, Esq.
C.J. Potter, IV, Esq.
1125 Shadow Lane
Las Vegas, Nevada 89102
Attorneys for Plaintiff Jacquelynn Nickler

DATED this ____ day of September, 2016.

OFFICE OF THE ATTORNEY GENERAL

Fredrick J. Perdomo, Esq.
Senior Deputy Attorney General
Bureau of Litigation
Public Safety Division
100 N. Carson Street
Carson, City, Nevada 89701-4717
Attorneys for Defendant Steven Grierson

ORDER

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

U.S. MAGISTRATE JUDGE